In the High Court of Punjab and Haryana at Chandigarh.

F.A.O.No.497 of 1988.

Date of decision:9.11.2006.

Kartar Singh.

...Appellant.

Versus

Des Raj and others.

...Respondents.

...

Coram: Hon'ble Mr.Justice S. N. Aggarwal.

...

Present: None for the appellant.

None for respondent Nos.1 and 2.

Mr.Inderjit Sharma Advocate for respondent No.3.

...

Judgment.

S. N. Aggarwal, J.

On 24.4.1986 at about 10 AM, Kartar Singh appellant was standing on the road opposite the building of State Bank of India, Batala. Truck No.PUE-4795 came from the side of Dera Baba Nanak and struck against the back side of car No.PBN-644 which was parked there. The said truck also passed over the left foot of Kartar Singh, appellant. It was completely crushed. Hence, Kartar Singh filed claim

petition against the driver,owner and the insurer of the offending truck and claimed a sum of Rs.75,000/-.

The petition was contested by the respondents.

Issues were framed.

The parties led the evidence.

The learned Motor Accident Claims Tribunal (in short Claims Tribunal) held that Kartar Singh appellant sustained injury on his left foot as a result of accident with truck No.PUE-4795 and this accident had taken place because of rash and negligent driving of the offending truck by its driver Des Raj,respondent No.1.

Kartar Singh has also proved the medical certificate, Exhibit A-3 issued by the Civil Surgeon, Gurdaspur which reads as under:-

> "Left foot badly crushed. Third metacarpal bone is excised in operation and is missing. Ankle joint is stiff. Small bones of the foot are also crushed. Skin grafting is done on the foot not bear weight on the foot. Walk with crutches."

The learned Claims Tribunal awarded compensation in the following terms:-

i)	Expenses towards medical treatment	Rs.4,000/-
ii)	Pain and suffering	Rs.3,000/-.
Iii)	Loss of income.	Rs.8,000/-

Total	Rs.15,000/-

Since the offending truck was insured with National Insurance Company Limited as proved by the insurance policy, Exhibit R-1, therefore, the Insurance Company was held liable. The learned Claims Tribunal accepted the claim petition to the tune of Rs.15,000/- and awarded interest at the rate of 12% per annum from the date of application till the date of actual realization vide award dated 21.3.1988.

Kartar Singh appellant filed the appeal alleging that the compensation awarded by the Claims Tribunal was highly inadequate. The left foot of Kartar Singh was crushed. As per the medical certificate, Exhibit A-3, he had suffered permanent disability. Therefore, the compensation awarded by the learned Claims Tribunal on account of expenditure on medical treatment and on account of pain and suffering is highly inadequate. A person whose foot has been crushed by a speeding truck certainly must have incurred expenditure of about Rs.20,000/-on the medical treatment in those days. The pain and suffering cannot be explained which the victim had. Therefore, the compensation on account of pain and suffering is increased to Rs.22,000/- The learned Claims Tribunal has also awarded a sum of Rs.8,000/- on account of loss of income which is up-held. Therefore, the total amount of compensation comes to Rs.50,000/- instead of Rs.15,000/-. The appellant shall also be entitled to interest at the rate of

7% per annum on the enhanced amount of compensation i.e. on Rs.35,000/- from the date of application till the date of realization. Respondent No.3 being the insurer would be liable to make the payment of compensation.

This appeal is disposed of in the above terms.

November 8,2006. (S. N. Aggarwal)
Jaggi Judge